

## CHAPTER 31 COMPLAINTS

[Prior to 5/18/88, Dental Examiners, Board of [320]]

**650—31.1(272C) Complaint review.** The board shall, upon receipt of a complaint, or may upon its own motion, pursuant to other evidence received by the board, review and investigate alleged acts or omissions which the board reasonably believes constitute cause under applicable law or administrative rule for licensee discipline.

**650—31.2(153) Form and content.** A written complaint should include the following facts:

1. The full name, address, and telephone number of the complainant.
2. The full name, address, and telephone number of the licensee.
3. A statement of the facts concerning the alleged acts or omissions.

**650—31.3(153) Address.** The written complaint may be delivered personally or by mail to the executive director of the board. The current office address is Executive Hills West, 1209 East Court, Des Moines, Iowa 50319.

**650—31.4(153) Investigation.** In order for the board to determine if probable cause exists for a hearing on the complaint, the executive director or authorized designee shall cause an investigation to be made into the allegations of the complaint.

**650—31.5(153) Peer review.** A complaint made to the board may be assigned to a peer review committee for review, investigation and report to the board. The board shall determine which peer review committee will review a case and what complaints or other matters shall be referred to a peer review committee for investigation, review, and report to the board.

**31.5(1)** The board may use the peer review committee system organized under the dental care programs council of the Iowa dental association or a specifically constituted peer review committee designated by the board for matters involving dentists; the ethics committee of the Iowa dental hygienists association or a specifically constituted peer review committee designated by the board may serve as peer review committees for matters involving dental hygienists. The Iowa dental association and the Iowa dental hygienists association shall register yearly and keep current its peer review system with the board. Board appointed peer review committee members shall be registered with the board when appointed.

**31.5(2)** Members of the peer review committees shall not be liable for acts, omissions or decisions made in connection with service on the peer review committee. However, immunity from civil liability shall not apply if the act is done with malice.

**650—31.6(272C) Duties of peer review committees.**

**31.6(1)** The peer review committees shall observe the requirements of confidentiality imposed by Iowa Code section 272C.6.

**31.6(2)** The board may provide investigatory and related services to peer review committees.

**31.6(3)** A peer review committee shall thoroughly investigate a complaint as assigned and make written recommendations to the board in accordance with the board's direction.

**31.6(4)** Written recommendations shall contain a statement of facts, the recommendation for disposition and the rationale supporting the recommendation. The peer review should consider relevant statutes, board rules, ethical standards and standards of care in making its recommendations.

**31.6(5)** Written recommendations shall be signed by the members of the peer review committee concurring in the report.

**31.6(6)** Upon completion all investigative reports prepared by peer review committees or staff together with any recommendations shall be submitted to the board.

**650—31.7(272C) Board review.** The board shall review all investigative reports and proceed pursuant to 650—Chapter 51.

**650—31.8(272C) Confidentiality of investigative files.** Complaint files, investigation files, all other investigation reports, and other investigative information in the possession of the board or peer review committee acting under the authority of the board or its employees or agents which relate to licensee discipline shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person other than the licensee and the board, its employees and agents involved in licensee discipline, or be admissible in evidence in any judicial or administrative proceeding other than the proceeding involving licensee discipline. However, a final written decision and finding of fact of the board in a disciplinary proceeding shall be public record.

**650—31.9(272C) Reporting of judgments or settlements.** Each licensee shall report to the board every adverse judgment in a malpractice action to which the licensee is a party and every settlement of a claim against the licensee alleging malpractice. The report together with a copy of the judgment or settlement must be filed with the board within 30 days from the date of said judgment or settlement.

**650—31.10(272C) Investigation of reports of judgments and settlements.** Reports received by the board from the commissioner of insurance, insurance carriers and licensees involving adverse judgments in a professional malpractice action, and settlement of claims alleging malpractice, shall be reviewed and investigated by the board in the same manner as is prescribed in these rules for the review and investigation of complaints.

**650—31.11(272C) Reporting acts or omissions.** Each licensee having knowledge of acts or omissions set forth in rule 650—30.4(153) shall report to the board those acts or omissions when committed by another person licensed by the board. The report shall include the name and address of the licensee and the date, time and place of the incident.

**650—31.12(272C) Failure to report licensee.** Upon obtaining information that a licensee failed to file a report required by rule 31.11(272C) within 30 days from the date the licensee acquired the information, the board may initiate a disciplinary proceeding against the licensee who failed to make the required report.

**650—31.13(272C) Immunities.** A person shall not be civilly liable as a result of filing a report or complaint with the board, or for the disclosure to the board or its agents or employees, whether or not pursuant to a subpoena of records, documents, testimony or other forms of information which constitute privileged matter concerning a recipient of health care services or some other person, in connection with proceedings of a peer review committee, or in connection with duties of the board. However, immunity from civil liability shall not apply if the act is done with malice.

These rules are intended to implement Iowa Code sections 153.33, 272C.3, and 272C.4.

[Filed 4/9/79, Notice 10/4/78—published 5/2/79, effective 6/6/79]

[Filed 4/28/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]

[Filed 9/1/88, Notice 7/27/88—published 9/21/88, effective 10/26/88]

[Filed 4/21/95, Notice 2/15/95—published 5/10/95, effective 6/14/95]